

REMARKS

Applicants have amended claims 1, 6, and 24, added new claims 25 and 26, and cancelled claims 3 and 21 without prejudice or disclaimer of subject matter therein. No new matter has been added by way of these amendments. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 1 and 3-19 under 35 U.S.C. §112, second paragraph, asserting claim 1 recites, “to provide a transfer of the vacuum the housing to the inlet” in lines 17-18, but that the structural relationship between the limitations is unclear. Additionally, the Office asserts claim 6 is dependent on a cancelled claim. Accordingly, Applicants have now amended claim 1 to clarify the structural relationship and claim 6 to correct the dependency error as set forth above. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw this rejection

The Office has rejected claims 1, 3-9, 13, and 15-18 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 3,032,037 to Huber (Huber). The Office asserts Huber discloses an apparatus capable for use with a milking machine comprising one or more teat cups and a vacuum source providing a pulsed vacuum in the teat cups, for collecting a small volume of liquid for cold storage, the apparatus comprising: a lay flat flexible bag (citing to element 10) comprising a collar (citing to element 10x) defining an opening; a housing (citing to element 20) for the flexible bag comprising an inlet conduit (citing to element 29) extending into the housing for receiving the liquid from the one or more teat cups and comprising an opening (citing to element 26) within the housing for delivering the liquid; a port (citing to element 31) for providing a vacuum within the housing from said vacuum source; and a retaining system (citing to elements 14 and 15) that retains the collar of the flexible bag about the inlet conduit so that the bag receives liquid from the inlet opening; and a transfer system (cited below) that transfers the vacuum from the port for providing a vacuum within the housing to the inlet conduit when the collar of the flexible bag is retainable about the inlet conduit by the retaining system, the transfer system comprising a space between the collar and inlet (asserting 29 enters 14 through 16, rendering a space between 29 and 10x) with the conduit extending into the bag.

Huber does not disclose or suggest, “a port configured to provide a pulsating vacuum within the housing from said vacuum source,” as recited in claim 1. As noted above, the Office relies on Huber’s element 31 to disclose the above-noted limitation of claim 1. However, in col. 3, lines 66, Huber states:

In FIGS. 1, 2 and 3, a tube 30 leading from a constant source of vacuum is shown to be attached to the chamber 20 through a wall fitting 31. It is of significance that in the present operation a constant low vacuum, of from 2 to 4 inches only is employed, such as that drawn by a small motor driven pump. (Emphasis added)

In other words, Huber’s system clearly operates at a constant low vacuum and therefore wall fitting 31 is not “configured to provide a pulsating vacuum within the housing from said vacuum source,” as recited in the claims. In fact, as indicated in the above-noted portion of Huber, a pulsating vacuum would render Huber’s invention inoperable. In sharp contrast, the claimed port configured to provide a pulsating vacuum is advantageous, for example, in avoiding clogging during milking operations. Therefore, Huber fails to disclose or suggest at least this limitation of claim 1, and thus fails to anticipate claim 1. Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claim 1. Since claims 4-9, 13 and 15-18 depend from and contain the limitations of claim 1, they are distinguishable over the cited reference and patentable in the same manner as claim 1.

The Office has rejected claims 1, 3, 5, 6, 10-12, 14, 17, 19, 23, and 24 under 35 U.S.C. §103(a) as allegedly being unpatentable over WO 1996/008441 to Todd et al. (Todd) in view of Huber, and claims 20-22 under 35 U.S.C. §103(a) as allegedly being unpatentable over Todd in view of Huber as applied to claim 1 above, and further in view of U.S. Patent No. 3,242,903 to Karnath et al. (Karnath). The Office asserts Todd discloses an apparatus for use with a milking machine comprising one or more teat cups and a vacuum source providing a pulsed vacuum in the teat cups, for collecting a small volume of liquid for cold storage, the apparatus comprising: a flexible bag (asserting element 200; made from a “non-rigid plastic material,” citing to page 4, lines 10-11) comprising a collar (citing to element 210) defining an opening; a housing (citing to element 100) for the flexible bag comprising an inlet conduit (citing to element 119) extending into the housing for receiving the liquid from the one or more teat cups and comprising an opening (asserting through which the conduit extends) within the housing for delivering the liquid; a port (citing to

element 107) for providing a vacuum within the housing from said vacuum source; and a retaining system (asserting the lug around 117, at minimum) that retains the collar of the flexible bag about the inlet conduit so that the bag receives liquid from the inlet opening; and a transfer system (citing to below) that transfers the vacuum from the port for providing a vacuum within the housing to the inlet conduit when the collar of the flexible bag is retainable about the inlet conduit by the retaining system, the transfer system comprising a space between the collar and inlet (asserting as seen in Fig. 1, a space surrounds the inlet conduit) with the conduit extending into the bag. The Office acknowledges Todd does not specifically disclose a lay flat bag, and rather asserts Huber discloses a bodily fluid collection system using a lay flat bag (asserting as variously seen but best depicted in Fig. 8), and it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Todd to use a lay flat bag as taught by Huber for the well-known predictable advantage of providing easy storage of the bags when not in use.

Further, the Office admits Todd as modified renders a fluid collector for a milking machine comprising a plurality of teat cups (citing to page 6, lines 5-6) a vacuum source for applying a vacuum to the teat cups (citing to page 6, lines 5-7), and a vacuum line for providing the vacuum (connected to 117), but does not specifically disclose a reservoir for collecting relatively large volumes of milk or a pressure oscillation system providing a pulsating vacuum to the teat cups. Rather, the Office asserts Karnath teaches a milking machine which separates out a small amount of liquid having a reservoir for larger amounts of liquid (20) and a pressure oscillation system (valve 9), and it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Todd to use the components of Karnath for the well-known advantages of collecting the main milk supply for use rather than merely sample, to properly operate the teat cup pumps, and to further distribute the milk supply into smaller containers for ease of shipping, distribution, storage.

However, Todd, Huber, and Karnath, taken alone or in combination, do not disclose or suggest “a port configured to provide a pulsating vacuum within the housing from said vacuum source,” as recited in claim 1, or “providing a port configured to provide a pulsating vacuum within the housing from the vacuum source,” as recited in claim 24.

As discussed in greater detail above, Huber fails to disclose or suggest the above-noted limitation of claim 1 or similarly in claim 24. Additionally, the Office admits

Todd fails to disclose the above-noted limitation of claims 1 and 24, but instead asserts element 9 in Karnath discloses this claim limitation. Applicants respectfully disagree with the Office's assertions. Element 9 in Karnath is a, "pressure indicating reducing valve 9" that "will give an indication of the extent of vacuum in the immediate vicinity of the milking apparatus . . .," *see*, col. 3, lines 65-71. In other words, element 9 is simply an indicator of the level of vacuum in the milking apparatus and is not "a port configured to provide a pulsating vacuum within the housing from said vacuum source," as recited in the claims. In fact, like Huber, Karnath is directed toward "a constant-vacuum milking apparatus" (*see*, for example, Karnath's claim 1) and fails to disclose or suggest providing a pulsating vacuum, as recited in the claims. Therefore, Karnath does not overcome the deficiencies of Todd and Huber, and does not render claims 1 and 24 unpatentable.

Accordingly, in view of the above amendments and remarks, the Office is respectfully requested to reconsider and withdraw this rejection of claims 1 and 24. Since claims 5, 6, 10-12, 14, 17, 19, 20, and 22 depend from and contain the limitations of claim 1, they are distinguishable over the cited references and patentable in the same manner as claim 1.

Applicants also have added new dependent claims 25-26 which are believed to be distinguishable over the prior art of record and in condition for allowance. A notice to this effect is respectfully requested.

In view of all of the foregoing, Applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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